

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA**

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In re:

FREDDIE M. ENGELHART  
DIANNE L. ENGELHART,

Debtors,

Bky Case No. 16-33692

Chapter 7

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Michael S. Dietz, Trustee

Plaintiff,

Adv. Case No.

vs.

FREDDIE M. ENGELHART  
DIANNE L. ENGELHART,

Defendants.

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**Complaint for Turnover**

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For his Complaint against Defendant, Plaintiff states and alleges as follows:

1. Plaintiff is the duly appointed, qualified and acting trustee of the Chapter 7 bankruptcy estate of the Debtors identified above.
2. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 1334 and 157. This adversary proceeding relates to the above-captioned case under the United States Bankruptcy Code, which case is pending in this Court.
3. This is a core proceeding under 28 U.S.C. § 157 (b)(2)(E).
4. During the 18 months prior to their bankruptcy filing the Defendants made 53 withdrawals, totaling \$272,319.00, from their Rushford National Bank checking account

by means other than a check drawn on the checking account (collectively, the “Withdrawals”). The Withdrawals, as reflected on the Defendants’ Rushford State Bank checking account statements, are set forth on Exhibit A attached hereto and incorporated by reference.

5. The Defendants are unable to provide any documentation to demonstrate that they spent, gifted or otherwise transferred the funds from the Withdrawals.

6. The Defendants are unable to provide a cogent, credible explanation regarding the transfer of the funds from the Withdrawals.

7. Pursuant to the doctrine of Continued Possession, the Defendants are deemed to have still been in possession of the funds from the Withdrawals as of the date of their bankruptcy filing.

8. The Defendants have not claimed any of the funds from the Withdrawals as exempt in their main bankruptcy case.

9. The funds from the Withdrawals are property which the trustee may use, sell, or lease under section 363 of Title 11.

10. The Defendants must turn over \$272,319.00 to the Plaintiff pursuant to 11 U.S.C. §542(a), representing the value of the funds from the Withdrawals.

11. The funds from the Withdrawals have consequential value to the bankruptcy estate.

**WHEREFORE**, Plaintiff prays the Court enter judgment against Defendants and in favor of Plaintiff in the amount of \$272,319.00, together with such other and further relief as the Court deems just and equitable.

Dated: March 16, 2017

**DUNLAP & SEEGER, P.A.**

By: /e/ Michael S. Dietz

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